

Agency Proposed Budget

The following table summarizes the total executive budget proposal for the agency by year, type of expenditure, and source of funding.

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2004	PL Base Adjustment Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	PL Base Adjustment Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Exec. Budget Fiscal 06-07
FTE	3.00	0.00	0.00	3.00	0.00	0.00	3.00	3.00
Personal Services	145,942	3,811	0	149,753	3,738	0	149,680	299,433
Operating Expenses	40,673	10,176	0	50,849	6,661	0	47,334	98,183
Total Costs	\$186,615	\$13,987	\$0	\$200,602	\$10,399	\$0	\$197,014	\$397,616
General Fund	186,615	13,987	0	200,602	10,399	0	197,014	397,616
Total Funds	\$186,615	\$13,987	\$0	\$200,602	\$10,399	\$0	\$197,014	\$397,616

Agency Description

The Office of the Appellate Defender is a single program agency administratively attached to the Department of Administration. The Appellate Defender is hired by, and serves at the pleasure of, the Appellate Defender Commission. The Appellate Defender provides legal counsel for indigent persons who have been convicted and who then appeal district court convictions, or who petition for post-conviction relief from district court proceedings. The Appellate Defender also aids the commission by compiling and maintaining a current roster of Montana attorneys who are eligible to serve as trial and appellate defense counsel for the indigent, if appointed by an appropriate court.

Agency Highlights

Appellate Defender Major Budget Highlights	
<ul style="list-style-type: none"> Total funding increases about \$24,200, or 6.4 percent over the 2005 biennium appropriation due to statewide present law adjustments and miscellaneous expenses Funding is removed for salary increases funded by the 2003 Legislature under the broadband pay plan of the alternative classification and compensation system 	

Agency Discussion

During the interim following the 2003 legislative session, the Interim Law and Justice Committee formed a subcommittee to develop legislation to establish a statewide public defender system. The legislation for the statewide public defender system (LC 214) would provide public defender services in criminal and certain civil cases for any individual who is determined to be financially unable to retain private counsel and is accused of an offense that could result in loss of life or liberty if the person is convicted. The functions currently performed by the Appellate Defender would be one of several functions of the statewide public defender system. LC 214 changes the Appellate Defender Commission to a Public Defender Commission and establishes a Chief Public Defender Office headed by a Chief Public Defender. LC 214 would have the Appellate Defender working under the Chief Public Defender and would expand the appellate defense functions so that appeals currently funded by local governments and district courts are a part of the statewide system.

This budget request for the Appellate Defender is presented under current law and would need to be amended and combined with the budget for the new statewide public defender system if LC 214 is passed and approved.

Funding

Services provided by the Appellate Defender are funded entirely from the state general fund.

Program Funding Table						
Appellate Defender						
Program Funding	Base FY 2004	% of Base FY 2004	Budget FY 2006	% of Budget FY 2006	Budget FY 2007	% of Budget FY 2007
01000 General Fund	\$ 186,615	100.0%	\$ 200,602	100.0%	\$ 197,014	100.0%
Grand Total	186,615	100.0%	200,602	100.0%	197,014	100.0%

Biennium Budget Comparison

The following table compares the executive budget request in the 2007 biennium with the 2005 biennium by type of expenditure and source of funding. The 2005 biennium consists of actual FY 2004 expenditures and FY 2005 appropriations.

Biennium Budget Comparison								
Budget Item	Present Law Fiscal 2006	New Proposals Fiscal 2006	Total Exec. Budget Fiscal 2006	Present Law Fiscal 2007	New Proposals Fiscal 2007	Total Exec. Budget Fiscal 2007	Total Biennium Fiscal 04-05	Total Exec. Budget Fiscal 06-07
FTE	3.00	0.00	3.00	3.00	0.00	3.00	3.00	3.00
Personal Services	149,753	0	149,753	149,680	0	149,680	294,399	299,433
Operating Expenses	50,849	0	50,849	47,334	0	47,334	79,063	98,183
Total Costs	\$200,602	\$0	\$200,602	\$197,014	\$0	\$197,014	\$373,462	\$397,616
General Fund	200,602	0	200,602	197,014	0	197,014	373,462	397,616
Total Funds	\$200,602	\$0	\$200,602	\$197,014	\$0	\$197,014	\$373,462	\$397,616

Present Law Adjustments

The "Present Law Adjustments" table shows the primary changes to the adjusted base budget proposed by the executive. "Statewide Present Law" adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2006-----					-----Fiscal 2007-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				6,961					6,888
Inflation/Deflation				(96)					(92)
Fixed Costs				3,610					3,637
Total Statewide Present Law Adjustments				\$10,475					\$10,433
DP 101 - Fixed cost and computer replacement	0.00	6,662	0	6,662	0.00	3,116	0	0	3,116
DP 102 - Alternative Pay Plan Reduction	0.00	(3,150)	0	(3,150)	0.00	(3,150)	0	0	(3,150)
Total Other Present Law Adjustments	0.00	\$3,512	\$0	\$3,512	0.00	(\$34)	\$0	\$0	(\$34)
Grand Total All Present Law Adjustments				\$13,987					\$10,399

DP 101 - Fixed cost and computer replacement - An increase of \$9,778 general fund for the biennium is proposed for increased office rent, personal computer replacements, and increases in indirect and administrative costs paid for administrative services provided by the Department of Administration. The request includes an increase of \$3,819 to replace personal computers for all staff in FY 2006, an increase of \$4 to fund increases of indirect and administrative costs paid to the Department of Administration for administrative services received, and an increase of \$5,955 to fund office rent increases.

**LFD
ISSUE**

The portion of this request for personal computer replacements is not an annually recurring expenditure. The state standard for personal computers specifies a four-year replacement cycle. By providing funding to replace computers for all staff in FY 2006, the budgets for each year of the 2009 biennium would be inflated and would necessitate a positive action to remove. If the legislature does not want the 2009 biennium budget to be inflated, it may wish to designate \$3,819 of the FY 2006 appropriation as one time only.

**LFD
ISSUE**

The lease contract for the office space occupied by the Appellate Defender expired during FY 2004. At that time the Appellate Defender decided not to renew the lease and sought different office space. The decision to relocate was based on a determination that the environmental characteristics of the previous space were substandard. The factors for determining that the office space was substandard were: 1) pigeon infestation; 2) temperature regulation; 3) building access; and 4) electrical system deficiencies.

By moving to a different office building, the Appellate Defender pays a higher rental cost, but the higher rental cost includes several offsetting costs paid separately in the old lease, such as janitorial services and parking. The rental contract for the new office space has a 1.0 percent lower cost increase factor than the old lease.

When the office was relocated in FY 2004, one-time moving expenses of \$2,044 were incurred. The moving expenses are not a recurring part of office operations. The legislature may wish to remove the moving expenses from the budgets each year of the 2007 biennium.

DP 102 - Alternative Pay Plan Reduction - A reduction of \$6,300 general fund for the biennium is requested to offset pay increases given to staff during FY 2004 under the broadband pay plan of the alternative classification and compensation system.

**LFD
ISSUE**

The 2003 Legislature approved an adjustment for the Appellate Defender 2005 biennium appropriations that provided \$12,600 funding for the biennium to provide performance based pay raises under the broadband pay plan. The broadband pay plan, with its nine pay bands, is an alternative classification and compensation system to the 25 pay grade statewide classification plan covering most state employees and allows for pay increases based on performance factors and attainment of job related competencies. In FY 2004, the Appellate Defender provided salary increases according to the plan approved and funded by the legislature in HB 2. The adjustment to remove funding for the corresponding salary increases appears to go against the intention of the legislature in this instance. If the legislature concurs with funding the broadband pay plan without impacting other functions of the office, it may wish to not approve this decision package. If the legislature concurs with the executive recommendation to not provide separate funding for the broadband pay plan increases awarded in FY 2004, it would approve this decision package with the following options:

- 1) As it is presented and leave it up to the discretion of the Appellate Defender to identify the functions that would not be funded; or
- 2) Direct the executive to identify the functions that would not be funded.